

Environmental Protection Agency

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(2) The volume of #2D 15 ppm sulfur motor vehicle delivered must meet the following requirement:

$$(\#2MV15_O + \#2MV15_{INVCHG}) \geq 0.8 \times \#2MV15_I$$

Where:

#2MV15_O = the total volume of fuel delivered during the compliance period that is designated as #2D 15 ppm sulfur motor vehicle diesel fuel.

#2MV15_{INVCHG} = the total volume of diesel fuel designated as #2D 15 ppm sulfur motor vehicle diesel fuel in inventory at the end of the compliance period minus the total volume of #2D 15 ppm sulfur motor vehicle diesel fuel in inventory at the beginning of the compliance period, and accounting for any corrections in inventory due to volume swell or shrinkage, difference in measurement calibration between receiving and delivering meters, and similar matters, where corrections that increase inventory are defined as positive.

#2MV15_I = the total volume of fuel received during the compliance period that is designated as #2D 15 ppm sulfur motor vehicle diesel fuel.

(3) The volume of #2D 500 ppm sulfur motor vehicle diesel fuel delivered must meet the following requirement:

$$\#2MV500_O \leq \#2MV500_I - \#2MV500_{INVCHG} + 0.2 \times \#2MV15_I$$

Where:

#2MV500_O = the total volume of fuel delivered during the compliance period that is designated as #2D 500 ppm sulfur motor vehicle diesel fuel.

#2MV500_I = the total volume of fuel received during the compliance period that is designated as #2D 500 ppm sulfur motor vehicle diesel fuel.

#2MV500_{INVCHG} = the total volume of diesel fuel designated as #2D 500 ppm sulfur motor vehicle diesel fuel in inventory at the end of the compliance period minus the total volume of #2D 500 ppm sulfur motor vehicle diesel fuel in inventory at the beginning of the compliance period, and accounting for any corrections in inventory due to volume swell or shrinkage, difference in measurement calibration between receiving and delivering meters, and similar matters, where corrections that increase inventory are defined as positive.

(4) The following calculation may be used to account for wintertime blending of kerosene:

$$\#2MV500_O \leq \#2MV500_I - \#2MV500_{INVCHG} + 0.2 * (\#1MV15_I + \#2MV15_I)$$

Where:

#1MV15_I = the total volume of fuel received during the compliance period that is designated as #1D 15 ppm sulfur motor vehicle diesel fuel.

(5) The following calculation may be used to account for wintertime blending of kerosene and/or changes in the facility's volume balance of motor vehicle diesel fuel resulting from a temporary shift of 500 ppm sulfur NRLM diesel fuel to 500 ppm sulfur motor vehicle diesel fuel during the compliance period:

$$\#2MV500_O < \#2MV500_I - \#2MV500_{INVCHG} + 0.2 * \#2MV15_I + \#1MV15_B + \#2NRLM500_S$$

Where:

#1MV15_B = the total volume of fuel received during the compliance period that is designated as #1D 15 ppm sulfur motor vehicle diesel fuel and that the facility can demonstrate they blended into #2D 500 ppm sulfur motor vehicle diesel fuel.

#2NRLM500_S = the total volume of #2D 500 ppm sulfur NRLM diesel fuel that the facility can demonstrate they redesignated as #2D 500 ppm sulfur motor vehicle diesel fuel during the compliance period.

(f) *Inventory adjustments.* Adjustments to inventory under this section must be based on normal business practices for the industry, appropriate physical plant operations and use of good engineering judgments.

(g) *Unique circumstances.* EPA may, at its discretion, grant a fuel distributor's application to modify its inventory of motor vehicle diesel fuel, NRLM diesel fuel, or heating oil for a given compliance period. EPA may grant an application to address unique circumstances, where appropriate, such as the start up of a new pipeline or pipeline segment.

[69 FR 39194, June 29, 2004]

EFFECTIVE DATE NOTE: At 69 FR 39194, June 29, 2004, § 80.599 was added, effective Aug. 30, 2004.

EXEMPTIONS

§ 80.600 What are the requirements for obtaining an exemption for motor vehicle diesel fuel used for research, development or testing purposes?

(a) *Written request for R&D exemption.* Any person may receive an exemption from the provisions of this subpart for motor vehicle diesel fuel used for research, development, or testing

(“R&D”) purposes by submitting the information listed in paragraph (c) of this section to:

(1) Director (6406J), Transportation and Regional Programs Division, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 (postal mail); or

(2) Director (6406J), Transportation and Regional Programs Division, U.S. Environmental Protection Agency, 501 3rd Street, NW., Washington, DC 20001 (express mail/courier); and

(3) Director (2242A), Air Enforcement Division, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

(b) *Criteria for an R&D exemption.* For an R&D exemption to be granted, the person requesting an exemption must:

(1) Demonstrate a purpose that constitutes an appropriate basis for exemption;

(2) Demonstrate that an exemption is necessary;

(3) Design an R&D program to be reasonable in scope; and

(4) Exercise a degree of control consistent with the purpose of the program and EPA’s monitoring requirements.

(c) *Information required to be submitted.* To demonstrate each of the elements in paragraphs (b)(1) through (4) of this section, the person requesting an exemption must include the following information in the written request required under paragraph (a) of this section:

(1) A concise statement of the purpose of the program demonstrating that the program has an appropriate R&D purpose.

(2) An explanation of why the stated purpose of the program cannot be achieved in a practicable manner without performing one or more of the prohibited acts under this subpart.

(3) To demonstrate the reasonableness of the scope of the program:

(i) An estimate of the program’s duration in time and, if appropriate, mileage;

(ii) An estimate of the maximum number of vehicles or engines involved in the program;

(iii) The manner in which the information on vehicles and engines used in the program will be recorded and made available to the Administrator upon request; and

(iv) The quantity of diesel fuel which does not comply with the requirements of §§ 80.520 through 80.525.

(4) With regard to control, a demonstration that the program affords EPA a monitoring capability, including:

(i) The site(s) of the program (including facility name, street address, city, county, state, and zip code);

(ii) The manner in which information on vehicles and engines used in the program will be recorded and made available to the Administrator upon request;

(iii) The manner in which information on the diesel fuel used in the program (including quantity, fuel properties, name, address, telephone number and contact person of the supplier, and the date received from the supplier), will be recorded and made available to the Administrator upon request;

(iv) The manner in which the party will ensure that the R&D fuel will be segregated from motor vehicle diesel fuel and fuel pumps will be labeled to ensure proper use of the R&D diesel fuel;

(v) The name, address, telephone number and title of the person(s) in the organization requesting an exemption from whom further information on the application may be obtained; and

(vi) The name, address, telephone number and title of the person(s) in the organization requesting an exemption who is responsible for recording and making available the information specified in this paragraph (c), and the location where such information will be maintained.

(d) *Additional requirements.* (1) The product transfer documents associated with R&D motor vehicle diesel fuel must comply with requirements of § 80.590(b)(5).

(2) The R&D diesel fuel must be designated by the refiner or supplier, as applicable, as R&D diesel fuel.

(3) The R&D diesel fuel must be kept segregated from non-exempt motor vehicle diesel fuel at all points in the distribution system.

(4) The R&D diesel fuel must not be sold, distributed, offered for sale or distribution, dispensed, supplied, offered for supply, transported to or from, or stored by a diesel fuel retail outlet, or by a wholesale purchaser-consumer facility, unless the wholesale purchaser-consumer facility is associated with the R&D program that uses the diesel fuel.

(5) At the completion of the program, any emission control systems or elements of design which are damaged or rendered inoperative shall be replaced on vehicles remaining in service, or the responsible person will be liable for a violation of the Clean Air Act Section 203(a)(3) unless sufficient evidence is supplied that the emission controls or elements of design were not damaged.

(e) *Mechanism for granting of an exemption.* A request for an R&D exemption will be deemed approved by the earlier of sixty (60) days from the date on which EPA receives the request for exemption, (provided that EPA has not notified the applicant of potential disapproval by that time), or the date on which the applicant receives a written approval letter from EPA.

(1) The volume of diesel fuel subject to the approval shall not exceed the estimated amount in paragraph (c)(3)(iv) of this section, unless EPA grants a greater amount in writing.

(2) Any exemption granted under this section will expire at the completion of the test program or three years from the date of approval, whichever occurs first, and may only be extended upon re-application consistent with all requirements of this section.

(3) The passage of sixty (60) days will not signify the acceptance by EPA of the validity of the information in the request for an exemption. EPA may elect at any time to review the information contained in the request, and where appropriate may notify the responsible person of disapproval of the exemption.

(4) In granting an exemption the Administrator may include terms and conditions, including replacement of emission control devices or elements of

design, that the Administrator determines are necessary for monitoring the exemption and for assuring that the purposes of this subpart are met.

(5) Any violation of a term or condition of the exemption, or of any requirement of this section, will cause the exemption to be void ab initio.

(6) If any information required under paragraph (c) of this section should change after approval of the exemption, the responsible person must notify EPA in writing immediately. Failure to do so may result in disapproval of the exemption or may make it void ab initio, and may make the party liable for a violation of this subpart.

(f) *Effects of exemption.* Motor vehicle diesel fuel that is subject to an R&D exemption under this section is exempt from other provisions of this subpart provided that the fuel is used in a manner that complies with the purpose of the program under paragraph (c) of this section and the requirements of this section.

(g) *Notification of Completion.* The party shall notify EPA in writing within thirty (30) days of completion of the R&D program.

EFFECTIVE DATE NOTE: 1. At 69 FR 39196, June 29, 2004, §80.600 was revised, effective Aug. 30, 2004. For the convenience of the user, the revised text is set forth as follows:

§ 80.600 What records must be kept for purposes of the designate and track provisions?

(a) In addition to the requirements of §80.592 and §80.602, the following record-keeping requirements shall apply to refiners and importers:

(1) Any refiner or importer shall maintain the records specified in paragraphs (a)(6) through (a)(10) of this section for each batch of distillate fuel that it transfers custody of and designates during the time period from June 1, 2006 through May 31, 2010, with the following categories:

- (i) #1D 15 ppm sulfur motor vehicle diesel fuel;
- (ii) #2D 15 ppm sulfur motor vehicle diesel fuel;
- (iii) 15 ppm sulfur NRLM diesel fuel;
- (iv) #1D 500 ppm sulfur motor vehicle diesel fuel;
- (v) #2D 500 ppm sulfur motor vehicle diesel fuel; or
- (vi) 500 ppm sulfur NRLM diesel fuel.

(2) Any refiner or importer shall maintain the records specified in paragraphs (a)(6) through (a)(10) of this section for each batch of distillate fuel that it transfers custody of

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and designates during the time period from June 1, 2007 through May 31, 2010 with the following categories:

- (i) High sulfur NRLM diesel fuel; or
- (ii) Heating oil.

(3) Any refiner or importer shall maintain the records specified in paragraphs (a)(6) through (a)(10) of this section for each batch of distillate fuel that it transfers custody of and designates during the time period from June 1, 2010 through May 31, 2012 with the following categories:

- (i) 500 ppm sulfur NR diesel fuel;
- (ii) 500 ppm sulfur LM diesel fuel; or
- (iii) Heating oil.

(4) Any refiner or importer shall maintain the records specified in paragraphs (a)(6) through (a)(10) of this section for each batch of distillate fuel that it transfers custody of and designates during the time period from June 1, 2012 through May 31, 2014 with the following categories:

- (i) 500 ppm sulfur NRLM diesel fuel; or
- (ii) Heating oil.

(5) Any refiner or importer shall maintain the records specified in paragraphs (a)(6) through (a)(10) of this section for each batch of heating oil that it transfers custody of and designates during the time period from June 1, 2014 and later as belonging to the heating oil category.

(6) The records for each batch with designations identified in paragraphs (a)(1) through (a)(5) of this section must clearly and accurately identify the batch number (including an indication as to whether the batch was received into the facility or delivered from the facility), date and time of day (if multiple batches are delivered per day) that custody was transferred, the designation, the volume in gallons of the batch, and the name and the EPA entity and facility registration number of the facility to whom such batch was transferred.

(i) For motor vehicle diesel fuel, the records must also identify whether the batch was received or delivered with or without taxes paid pursuant to Section 4082 of the Internal Revenue Code (26 U.S.C. 4082).

(ii) For NRLM diesel fuel, the records must also identify whether the batch was received or delivered with or without dye added pursuant to Section 4082 of the Internal Revenue Code (26 U.S.C. 4082).

(iii) For heating oil, the records must also identify whether the batch was received or delivered with or without the marker added pursuant to § 80.510(d) through (f).

(iv) For LM diesel, the records must also identify whether the batch was received or delivered with or without the marker added pursuant to § 80.510(e).

(7) Any refiner or importer shall, for each of its facilities, maintain records that clearly and accurately identify the total volume in gallons of designated fuel identified in paragraphs (a)(1) through (a)(5) of this sec-

tion transferred over each compliance period. The records shall be maintained separately for each fuel designated in paragraphs (a)(1) through (a)(5) of this section, and for each EPA entity and facility registration number to whom custody of the fuel was transferred.

(8) Notwithstanding the provisions of paragraphs (a)(6) and (a)(7) of this section, records of batches delivered of 500 ppm sulfur motor vehicle diesel fuel on which taxes have been paid per Section 4082 of the Internal Revenue Code (26 U.S.C. 4082) and of 500 ppm sulfur NRLM diesel fuel into which dye has been added per Section 4082 of the Internal Revenue Code (26 U.S.C. 4082), and of 500 ppm sulfur LM diesel fuel which has been properly marked pursuant to § 80.510(e) are not required to be maintained separately for each entity and facility to which the fuel was delivered.

(9) Notwithstanding the provisions of paragraphs (a)(6) and (a)(7) of this section, records of heating oil batches delivered that have been properly marked pursuant to § 80.510(d) through (f) and records of LM diesel fuel batches delivered that have been properly marked pursuant to § 80.510(e) are not required to be maintained separately for each entity and facility to which the fuel was delivered.

(10) Any refiner or importer shall maintain copies of all product transfer documents required under § 80.590. If all information required in paragraph (a)(6) of this section is on the product transfer document for a batch, then the provisions of this paragraph (a)(10) shall satisfy the requirements of paragraph (a)(6) of this section for that batch.

(11) Any refiner or importer shall maintain records related to annual compliance calculations performed under § 80.599 and to information required to be reported to the Administrator under § 80.601.

(12) Records must be maintained that demonstrate compliance with a refiner's compliance plan required under § 80.554, for distillate fuel designated as high sulfur NRLM diesel fuel and delivered from June 1, 2007 through May 31, 2010, for distillate fuel designated as 500 ppm sulfur NR diesel fuel and delivered from June 1, 2010 through May 31, 2012, and for distillate fuel designated as 500 ppm sulfur NRLM diesel fuel and delivered from June 1, 2012 through June 1, 2014 in the areas specified in § 80.510(g)(2).

(b) In addition to the requirements of § 80.592 and § 80.602, the following record-keeping requirements shall apply to distributors:

(1) Any distributor shall maintain the records specified in paragraphs (b)(2) through (b)(10) of this section for each batch of distillate fuel with the following designations for which custody is received or delivered. Records shall be kept separately for each of its facilities.

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(i) For each facility that receives #2D 15 ppm sulfur motor vehicle diesel fuel and distributes any #2D 500 ppm sulfur motor vehicle diesel fuel, records for each batch of diesel fuel with the following designations for which custody is received or delivered during the time period from June 1, 2006 through May 31, 2007:

(A) #1D 15 ppm sulfur motor vehicle diesel fuel;

(B) #2D 15 ppm sulfur motor vehicle diesel fuel;

(C) #2D 500 ppm sulfur motor vehicle diesel fuel; or

(D) 500 ppm sulfur NRLM diesel fuel.

(ii) For each facility, records for each batch of diesel fuel with the following designations for which custody is received or delivered during the time period from June 1, 2007 through May 31, 2010:

(A) #1D 15 ppm sulfur motor vehicle diesel fuel;

(B) #2D 15 ppm sulfur motor vehicle diesel fuel;

(C) #1D 500 ppm sulfur motor vehicle diesel fuel;

(D) #2D 500 ppm sulfur motor vehicle diesel fuel;

(E) 500 ppm sulfur NRLM diesel fuel;

(F) 15 ppm sulfur NRLM diesel fuel;

(G) High sulfur NRLM diesel fuel; or

(H) Heating oil.

(iii) For each facility that receives unmarked fuel designated as NR diesel fuel, LM diesel fuel or heating oil, records for each batch of diesel fuel with the following designations for which custody is received or delivered during the time period from June 1, 2010 through May 31, 2012:

(A) 500 ppm sulfur NR diesel fuel;

(B) 500 ppm sulfur LM diesel fuel; or

(C) Heating oil.

(iv) For each facility that receives unmarked fuel designated as heating oil, records for each batch of diesel fuel with the following designations for which custody is received or delivered during the time period from June 1, 2012 through May 31, 2014:

(A) 500 ppm sulfur NRLM diesel fuel; or

(B) Heating oil.

(v) For each facility that receives unmarked fuel designated as heating oil, records for each batch of diesel fuel with the following designations for which custody is received or delivered during the time period beginning June 1, 2014:

(A) 500 ppm sulfur LM diesel fuel; or

(B) Heating oil.

(vi) From June 1, 2007 through May 31, 2010, for those facilities in the areas specified in §80.510(g)(2) that receive unmarked fuel designated as high sulfur NRLM diesel fuel:

(A) High sulfur NRLM diesel fuel; or

(B) Heating oil.

(vii) From June 1, 2010 through May 31, 2012, for those facilities in the areas specified in §80.510(g)(2) that receive unmarked fuel

designated as 500 ppm sulfur NR diesel fuel, 500 ppm sulfur LM diesel fuel, or heating oil:

(A) 500 ppm sulfur NR diesel fuel;

(B) 500 ppm sulfur LM diesel fuel; or

(C) Heating oil.

(viii) From June 1, 2012 through May 31, 2014, for those facilities in the areas specified in §80.510(g)(2) that receive unmarked fuel designated as 500 ppm sulfur NRLM diesel fuel or heating oil.

(A) 500 ppm sulfur NRLM diesel fuel; or

(B) Heating oil.

(2) Records that for each batch clearly and accurately identify the batch number (including an indication as to whether the batch was received into the facility or delivered from the facility), date and time of day (if multiple batches are delivered per day) that custody was transferred, the designation, the volume in gallons of each batch of each fuel, and the name and the EPA entity and facility registration number of the facility to whom or from whom such batch was transferred.

(i) For motor vehicle diesel fuel the records must also identify whether the batch was received or delivered with or without taxes paid pursuant to section 4082 of the Internal Revenue Code (26 U.S.C. 4082).

(ii) For NRLM diesel fuel, the records must also identify whether it was received or delivered with or without dye added pursuant to Section 4082 of the Internal Revenue Code (26 U.S.C. 4082).

(iii) For heating oil, the records must also identify whether it was received or delivered with or without the marker added pursuant to §80.510(d) through (f).

(iv) For LM diesel fuel, the records must also identify whether it was received or delivered with or without the marker added pursuant to §80.510(e).

(v) For batches of fuel received from facilities without an EPA facility registration number, any batches of fuel received marked pursuant to §80.510(d) or (f) shall be deemed designated as heating oil, any batches of fuel received marked pursuant to §80.510(e) shall be deemed designated as heating oil or LM diesel fuel, any batches of fuel received on which taxes have been paid pursuant to Section 4082 of the Internal Revenue Code (26 U.S.C. 4082) shall be deemed designated as motor vehicle diesel fuel, any 500 ppm sulfur diesel fuel dyed pursuant to §80.520(b) and not marked pursuant to §80.510(d) or (f) shall be deemed designated as NRLM diesel fuel, and any diesel fuel with less than or equal to 500 ppm sulfur which is dyed pursuant to §80.520(b) and not marked pursuant to §80.510(e) shall be deemed to be NR diesel fuel.

(3) Records that clearly and accurately identify the total volume in gallons of each designated fuel identified under paragraph (b)(1) of this section transferred over each of the compliance periods, and over the periods

from June 1, 2007 to the end of each compliance period. The records shall be maintained separately for each fuel designated under paragraph (b)(1) of this section, and for each EPA entity and facility registration number from whom the fuel was received or to whom it was delivered. For batches of fuel received from facilities without an EPA facility registration number, any batches of fuel received marked pursuant to § 80.510(d) or (f) shall be deemed designated as heating oil, any batches of fuel received marked pursuant to § 80.510(e) shall be deemed designated as heating oil or LM diesel fuel, any batches of fuel received on which taxes have been paid pursuant to Section 4082 of the Internal Revenue Code (26 U.S.C. 4082) shall be deemed designated as motor vehicle diesel fuel, any 500 ppm sulfur diesel fuel dyed pursuant to § 80.520(b) and not marked pursuant to § 80.510(d) or (f) shall be deemed designated as NRLM diesel fuel, and any diesel fuel with less than or equal to 500 ppm sulfur which is dyed pursuant to § 80.520(b) and not marked pursuant to § 80.510(e) shall be deemed to be NR diesel fuel.

(4) Notwithstanding the provisions of paragraphs (b)(2) and (b)(3) of this section, for batches of 500 ppm sulfur motor vehicle diesel fuel delivered on which taxes have been paid per Section 4082 of the Internal Revenue Code (26 U.S.C. 4082) and 500 ppm sulfur NRLM diesel fuel into which red dye has been added per Section 4082 of the Internal Revenue Code (26 U.S.C. 4082), records are not required to be maintained separately for each entity or facility to whom fuel was delivered.

(5) Notwithstanding the provisions of paragraphs (b)(2) and (b)(3) of this section, for batches of heating oil delivered that are marked pursuant to § 80.510(d) through (f), records do not need to identify the EPA entity or facility registration number to which fuel was delivered.

(6) Notwithstanding the provisions of paragraphs (b)(2) and (b)(3) of this section, for batches of LM diesel fuel delivered that are marked pursuant to § 80.510(e), records do not need to identify the EPA entity or facility registration number to which fuel was delivered.

(7) Records that clearly and accurately reflect the beginning and ending inventory volume for each of the fuels for which records must be kept under paragraph (b)(1) of this section. Such records shall be maintained separately by each entity and facility consistent with the compliance periods defined in §§ 80.598 and 80.599.

(8) (i) If adjustments are made to inventory, the records must include detailed information related to the amount, type of, and reason for such adjustment.

(ii) If adjustments are made because of measurement error or variation, the records must include the adjustment made, the

meter or gauge or other reading(s), and the name of the person who took such reading(s) and or applied the adjustment.

(9) For distributors that are required to keep records under paragraphs (b)(1) through (b)(8) of this section for truck loading terminals, records related to quarterly or annual compliance calculations, as applicable, performed under § 80.599 and to information required to be reported to the Administrator under § 80.601.

(10) For distributors that are required to keep records under paragraphs (b)(1) through (b)(8) of this section for facilities other than truck loading terminals, records related to annual compliance calculations performed under § 80.599 and to information required to be reported to the Administrator under § 80.601.

(c) Notwithstanding the provisions of paragraph (b) of this section, records of heating oil received are not required to be maintained for facilities that do not receive any heating oil which is unmarked pursuant to § 80.510(d) through (f), or LM diesel fuel which is unmarked pursuant to § 80.510(e).

(d) Notwithstanding the provisions of paragraph (b) of this section, records of 500 ppm sulfur MVNRLM diesel fuel received are not required to be maintained for facilities that do not receive any motor vehicle diesel fuel for which taxes have not already been paid pursuant to Section 4082 of the Internal Revenue Code (26 U.S.C. 4082) or NRLM diesel fuel which is undyed pursuant to § 80.520(b).

(e) The provisions of paragraphs (b)(1)(iii) and (iv) of this section do not apply to facilities located in the areas specified in § 80.510(g)(1) and (g)(2) unless they deliver marked heating oil or LM diesel fuel to areas outside the areas specified in § 80.510(g)(1) and (g)(2).

(f) Ultimate consumers that receive any batch of high sulfur NRLM diesel fuel beginning June 1, 2007 in areas listed in § 80.510(g)(2) must maintain records of each batch of fuel received for use in NRLM equipment pursuant to the compliance plan provisions of § 80.554, unless otherwise allowed by EPA.

(g) Ultimate consumers that receive any batch of 500 ppm sulfur NR diesel fuel beginning June 1, 2010 or NRLM diesel fuel beginning June 1, 2012 in the areas listed in § 80.510(g)(2) must maintain records of each batch of fuel received for use in NR or NRLM equipment, as appropriate, pursuant to the compliance plan provisions of § 80.554, unless otherwise allowed by EPA.

(h) For purposes of this section, each portion of a shipment of designated distillate fuel under this section that is differently designated from any other portion, even if shipped as fungible product having the same sulfur content, shall be a separate batch.

(i) The records required in this section must be made available to the Administrator

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or the Administrator's designated representative upon request.

(j) Notwithstanding the provisions of this section, product transfer documents must be maintained under the provisions of §§ 80.590, 80.592, and 80.602.

(k) The records required in this section must be kept for five years after they are required to be collected.

(l) Identifications of fuel designations can be limited to a sub-designation that accurately identifies the fuel and do not need to also include the broader designation. For example, NR diesel fuel does not also need to be designated as NRLM or MVNRLM diesel fuel.

EFFECTIVE DATE NOTE: 2. At 69 FR 39196, June 29, 2004, the center heading before § 80.600 was removed, effective Aug. 30, 2004.

§ 80.601 What requirements apply to motor vehicle diesel fuel for use in the Territories?

The sulfur standards of § 80.520(a)(1) and (c) do not apply to diesel fuel that is produced, imported, sold, offered for sale, supplied, offered for supply, stored, dispensed, or transported for use in the Territories of Guam, American Samoa or the Commonwealth of the Northern Mariana Islands provided that such diesel fuel is:

(a) Designated by the refiner or importer as high sulfur diesel fuel only for use in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands;

(b) Used only in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands;

(c) Accompanied by documentation that complies with the product transfer document requirements of § 80.590(e)(3); and

(d) Segregated from non-exempt motor vehicle diesel fuel at all points in the distribution system from the point the diesel fuel is designated as exempt fuel only for use in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands, while the exempt fuel is in the United States but outside these Territories.

EFFECTIVE DATE NOTE: At 69 FR 39198, June 29, 2004, § 80.601 was revised, effective Aug. 30, 2004. For the convenience of the user, the revised text is set forth as follows:

§ 80.601 What are the reporting requirements for purposes of the designate and track provisions?

(a) *Quarterly reporting.* Beginning November 30, 2007 and continuing through August 31, 2010, each entity required to maintain records under § 80.600 must report the following information separately for each of its facilities to the Administrator on a quarterly basis, as specified in paragraph (e)(1) of this section:

(1) Separately for each designation category and separately for each transferee facility, the total volume in gallons of distillate fuel designated under § 80.598 for which custody was delivered by the reporting facility to any other entity or facility, and the EPA entity and facility registration number(s), as applicable, of the transferee.

(2) Separately for each designation category and separately for each transferor facility, the total volume in gallons of distillate fuel designated under § 80.598 for which custody was received by the reporting facility, and the EPA entity and facility registration number(s), as applicable, of the transferor.

(3) Any entity that receives custody of distillate fuel from another entity or facility that does not have an EPA facility identification number must report such batches as follows:

(i) Any batch of distillate fuel for which custody is received and which is marked pursuant to § 80.510(d) or (f) shall be deemed designated as heating oil, any batch of distillate fuel for which custody is received and which is marked pursuant to § 80.510(e) shall be deemed designated as heating oil or LM diesel fuel as applicable, and the report shall include that information under that designation.

(ii) Any batch of distillate fuel for which custody is received and for which taxes have been paid pursuant to Section 4082 of the Internal Revenue Code (26 U.S.C. 4082) shall be deemed designated as motor vehicle diesel fuel and the report shall include it under that designation.

(iii) Any batch of 500 ppm sulfur diesel fuel dyed pursuant to § 80.520(b) and not marked pursuant to § 80.510(d) and (f), and for which custody is received, shall be deemed designated as NRLM diesel fuel and the report shall include it under that designation.

(iv) Any batch of 500 ppm sulfur diesel fuel dyed pursuant to § 80.520(b) and not marked pursuant to § 80.510(e), and for which custody is received, shall be deemed designated as NR diesel fuel and the report shall include it under that designation.

(4) In the case of truck loading terminals, the results of all compliance calculations required under § 80.599, and including: